

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

IN RE:) CASE NO. 322-01387
Music City Motors, LLC) CHAPTER 7
) JUDGE RANDAL S. MASHBURN
Debtor(s))
)

THE DEADLINE FOR FILING A TIMELY RESPONSE IS January 18, 2023.

IF A RESPONSE IS TIMELY FILED, A HEARING WILL BE January 31, 2023 at 9:30 AM in Courtroom #1 in the U.S. Bankruptcy Court, 701 Broadway, Nashville, TN 37203.

NOTICE OF TRUSTEE'S MOTION FOR COMPROMISE AND SETTLEMENT

Comes the Trustee, David G. Rogers, in the above-captioned case, and moves the Court to grant Trustee's Motion for Compromise and Settlement with Discover Products, Inc.

YOUR RIGHTS MAY BE AFFECTED. If you do not want the court to grant the attached motion, or if you want the court to consider your views on the motion, then on or before January 18, 2023, you or your attorney must:

1. File with the Court your written response or objection explaining your position by electronic filing, mail, or in person at U.S. Bankruptcy Court, 701 Broadway, Nashville, TN 37203.
2. **Your response must state that the deadline for filing responses is January 18, 2023, the date of the scheduled hearing is January 31, 2023 and the motion to which you are responding is TRUSTEE'S MOTION FOR COMPROMISE AND SETTLEMENT.** If you want a file stamped copy returned, you must include an extra copy with a self-addressed, stamped envelope.
3. You must also mail a copy of your response to David G. Rogers. (see address below)

If a timely response is filed, the hearing will be held at the time and place indicated above. **THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.** You may check whether a timely response has been filed by calling the Clerk's office at 615-736-5584 or viewing the case on the Court's web site at www.tnmb.uscourts.gov. If you receive this notice by mail, you may have three additional days in which to file a timely response under Rule 9006(f) of the Federal Rules of Bankruptcy Procedure.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: December 27, 2022

/s/ David G. Rogers

David G. Rogers
#011658, Attorney for Trustee
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MOTION FOR COMPROMISE AND SETTLEMENT

David G. Rogers, trustee, in the referenced Chapter 7 bankruptcy case, files this Motion for Approval of Compromise and Settlement with Discover Products, Inc. In support thereof, the Trustee states as follows:

I. STATEMENT OF FACTS

1. A Chapter 7 bankruptcy was filed in the above case on April 29, 2022 and David G. Rogers is the duly appointed trustee.
2. The trustee discovered from the Debtor's bank statements multiple transfers to Discover Products, Inc.
3. The trustee further asserts that the potential preference adversary against Discover Products, Inc. is an asset of Debtor's bankruptcy estate and therefore within the trustee's authority to administer.
4. The trustee and Discover Products, Inc. (together the "Parties") believe there is a reasonable likelihood of success on the merits of their respective positions; however, the lawsuit involves complicated issues and will require significant preparation time for trial, which preparation will be time-consuming and expensive. Given the amount of funds at stake, it appears to be in the best interest of the estate to resolve the matter without the expense of trial and preparation.
5. The Parties have determined that a consensual resolution in the amount of Seven Thousand Five Hundred Dollars (\$7500.00) is in their best interests and have therefore compromised and settled all disputes with respect to the property described herein subject only to approval by the Bankruptcy Court.
6. Said settlement shall be paid by Discover Products, Inc. within five days of the final Order having been entered. In consideration of a payment of Seven Thousand Five Hundred Dollars (\$7500.00) to the bankruptcy estate, the trustee requests that the Court authorize him to execute a release of any and all claims the bankruptcy estate and Debtor may have against the Discover Products, Inc.

II. PROPOSED SETTLEMENT AND AUTHORITY FOR APPROVAL

7. The trustee is currently holding \$0.00 in this bankruptcy estate which is unencumbered.

The trustee is not operating any business of the debtor and, hence, there is no operating profit or loss. The Claims Bar Date is August 8, 2022. The total unsecured debt listed by the above Debtors on Schedule E/F of their petition is \$677,859.60. There is a pending adversary against Elysium Financial Services as well as other potential adversary proceedings that the trustee is pursuing on behalf of the bankruptcy estate.

8. The Bankruptcy Court derives its authority to approve compromise and settlement agreements from Bankruptcy Rule 9019(a). The decision of whether to approve a particular compromise lies within the discretion of the trial judge. However, the bankruptcy judge must exercise his discretion in an informed and reasoned manner:

When invoked as a guide to judicial action [discretion] means a sound discretion, that is to say, a discretion exercised not arbitrarily or willfully, but with regard to what is right and equitable under the circumstances and the law, and directed by the reason and conscience of the judge to a just result.

The central question is whether the compromise or settlement is fair, reasonable and adequately based on the facts and circumstances before the Court.

9. The benchmark for determining the propriety of a bankruptcy settlement is always whether the settlement is in the best interests of the estate. In deciding whether a settlement agreement serves the estate's best interests, courts have fashioned guiding principles for this consideration including:

- A. the probability of success in the litigation, with due consideration for uncertainty in fact and law;
- B. the complexity and likely duration of the litigation and any attendant expense, inconvenience and delay;
- C. the difficulties that may be encountered in collecting any judgment that might result;
- D. whether the settlement was the product of arm's length negotiations;
- E. whether the settlement is collusive;
- F. whether the proponents have experienced counsel and the litigation has been a "fair fight;"
- G. whether there has been sufficient discovery of the underlying facts and claims to enable counsel and the parties to act intelligently;
- H. the number of objecting parties and their relative interests;
- I. the paramount interest of creditors with a proper preference for their reasonable views; and

J. all other factors bearing on the wisdom of the compromise.

The Court need not conduct a mini-trial to determine the probable outcome of litigation, but need only apprise itself of the relevant facts and law so that it can make an informed and intelligent decision.

10. Ultimately, it is well accepted that compromises are favored in bankruptcy to minimize the cost of litigation to the estate and expedite its administration.

11. Based on the foregoing, the trustee believes the proposed compromise and settlement with Discover Products, Inc. is in the best interests of the creditors.

12. The Parties are represented by experienced counsel. The proposed settlement is the product of arm's length negotiations.

13. Notice of this Motion and an opportunity for objections will be given to creditors and parties in interest pursuant to Fed. R. Bankr. P. 9019 and LBR 9013-1.

WHEREFORE, the Trustee respectfully requests that the proposed settlement be approved and such other relief as may be necessary and appropriate.

Respectfully submitted,

/s/ David G. Rogers

David G. Rogers

#011658

Attorney for Trustee

P.O. Box 1227

Franklin, TN 37065-1227

(615) 472-8570

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ORDER AUTHORIZING
TRUSTEE'S MOTION FOR COMPROMISE AND SETTLEMENT

Upon the application of David G. Rogers, trustee's Motion for Compromise and Settlement for approval of a settlement with Discover Products, Inc., notice of same having been given pursuant to Local Rule 9013 and no objections having been filed..

IT IS HEREBY ORDERED that the trustee settle with Discover Products, Inc. in the amount of Seven Thousand Five Hundred Dollars (\$7500.00).

IT IS HEREBY ORDERED that the trustee is authorized to settle with Discover Products, Inc. in the amount of Seven Thousand Five Hundred Dollars (\$7500.00) and that the trustee is authorized to execute a release of any and all claims the bankruptcy estate and Debtor may have against the Discover Products, Inc.

***THIS ORDER WAS SIGNED AND ENTERED ELECTRONICALLY
AS INDICATED AT THE TOP OF THE FIRST PAGE.***

Submitted for entry:

/s/ David G. Rogers
David G. Rogers
#011658
Attorney for Trustee
P.O. Box 1227
Franklin, TN 37065-1227
(615) 472-8570
dgrtrustee@comcast.net

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Trustee's Motion of Compromise and Settlement; Motion of Compromise and Settlement; and Order Authorizing Compromise and Settlement was mailed, postage prepaid, this 27th day of December, 2022 to all parties listed on the mailing matrix attached.

/s/ David G. Rogers

David G. Rogers

(r)Alan Urbina
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Antioch, TN 37013-3400

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Hermitage, TN 37076-3652

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